

# SHORT ARTICLES

## THE NEW SYSTEM FOR RECRUITING PROFESSORS IN ITALIAN UNIVERSITIES: STRENGTH AND WEAKNESSES

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### *1. Inconsistency and contradictoriness of the legislative interventions on the recruitment of university professors*

The various regulations that have governed the system for recruiting university professors over the years have always been heavily criticised. Hence, the intervention of lawmakers has always been invoked. And, unfortunately, the inconsistency, contradictoriness and ineffectiveness of the solutions adopted were always borne out. Tracing the evolution of the regulations makes this easily clear.

For a long period, starting in 1859 and lasting into the late Seventies of the last century, the regulations on competitions for university chairs remained basically unaltered. During this time span, competitions were announced upon request by the individual departments concerned; judging committees were made up of five professors elected from among professors of the subject; the judgements were to be made and three suitable parties indicated, who may then also be called by other universities.

Not until the years 1979-80 was the selection system changed in order to eliminate the undue influence of academic corporations on the choices of the committee members. Thus, in one way, it was established that the recruitment would take place through a national, and no longer local competition based on

scientific qualifications and, in another way, that the judging committees be appointed based on mixed criteria, election of twice the number of candidates by professors of the subject and, subsequently, lots drawn for the exact number of candidates. However, in their practical implementation, the new regulations revealed various critical areas: the impossibility to plan the competition, very lengthy times for carrying out the procedures, randomness of choosing committee members, rather limited role of the universities concerned and a high number of conflicts.

As a consequence, a further regulatory intervention was required with the intention of ensuring the “standardisation” of the competitions and definition of new rules for carrying out the comparative procedures. So, in 1998, the rules were changed once again: the competitions were decentralised and jurisdiction over the calling of the competition announcement and the carrying out of the comparative evaluation was ascribed to the individual universities. Provided for, more specifically, was that the committee be composed of an internal member appointed by the department concerned and four other components, elected on a national level, whose task it was to identify up to three suitable candidates, who, over the three years thereafter, could be called up by any university. Once again, however, the system did not offer satisfactory results, due both to practically unending rounds of voting and limited selections, in which excessively prevailing local interests assured a privileged position for the “internal” candidate, with possible “exchanges” with other “academic schools” interested in the remaining preselected ones. It is interesting to note that this system was introduced by a centre-left Government and retained, thereafter, by a centre-right Government.

In 2005, the regulations on this subject were changed again, with the purpose of eliminating rampant localism, pathological logics of co-optation within individual academic groups and scant meritocracy in the competition procedures. A different recruitment system for professors was introduced, based on a process divided into two phases. Firstly, the candidate was to have attained the “national scientific qualification”, on the basis of procedures carried out on a State level, in consideration of the demands of the individual universities, due to judging committees appointed using mixed criteria (election of a triple number of

members and drawing lots). Secondly, there was to be a comparative evaluation procedure for selecting the persons to be called to fill the positions announced, carried out by each university on the basis of its own, in-house rules. A legislative measure, subsequently issued, further specified the principles and criteria required for attaining the national scientific qualification, but the ministerial decrees for implementing the law were not adopted. The result was that the latter could not have any effect.

Within this context, the fantasy of the lawmakers is abundant: in fact, in 2007 an inevitable decree-law was adopted that temporarily removed the block on the situation, thus allowing universities to announce other competitions using the previous rules. The result was a paradoxical situation: instead of introducing the provisions necessary for permitting the application of a law approved by Parliament, the Government preferred acting with urgency. This way an epic undertaking was accomplished: the resurgence of a regulation was enabled, that of 1998, that had been repealed by the law of 2005. Hence, once again, two Governments with different political ideologies agreed on the formation of this regulation, in an expression of a bipartisan policy.

On this matter, however, there was no end to the surprises. To cope with the block on competitions that was created, the  $n^{\text{th}}$  law by decree was adopted in 2008. It actually intervened on the standard competition procedures, by changing the rules of composition of the judging committees, with all due respect to administrative legitimacy. Specifically, it provided that judging committees be formed by the appointed member as well as four regular professors chosen at random from a list of three times the number of committee members with respect to the total committee members necessary.

The last act of an event was reached that matches any theatrical performance. At the close of 2010, and at the end of a long parliamentary debate, law no. 240 was approved (so-called “Gelmini law”, after the proposing Minister). One of the aspects, amended by the reform, was again that of recruiting university professors, although the choices made at the time were substantially in line with those outlined by the law of 2005.

## *2. The new system introduced by Law no. 240/2010*

The current system is founded on a two-phase process. The first is the national scientific qualification: during this phase, the candidates are judged by a single national committee, for each sector of the competition, so as to verify their suitability for performing the function of first or second level professor, without setting any limit to the number of competitors to qualify. The second phase takes place at the individual universities: it allows for calling up professors, following a specific comparative procedure, in which only professors who have attained the national scientific qualification may participate.

Specifically, article 16 of law no. 240/2010 instituted the national scientific qualification, hereby establishing its basic rules; this law referred to one or more rules to control the methods for performing the procedures for attaining the qualification, and defined the criteria; it provided that the criteria and parameters be set forth and differentiated by function and subject field, in order to analytically evaluate the qualifications and scientific publications presented by the candidates as well as the criteria aspiring committee members were to comply with in preparing their résumés.

In short, the national scientific qualification is accredited following an analytical evaluation of titles and scientific publications, expressed on the basis of criteria and parameters differentiated by function and subject field, defined in the decree by the Minister, without fixing the number of competitors that could qualify. The qualification does not grant a right to a permanent appointment, but only constitutes a necessary condition, although not sufficient, likened to professional qualifications, since the individual universities are called to choose autonomously: a kind of compulsory “prerequisite” for participation in the recruitment procedures carried out by the individual universities.

Several months passed before the new system was made effective and the ministerial decrees for implementing the law were adopted, so that the first announcement of the national scientific qualification could not be called until late 2012.

Among other things, the itemised rules sanctioned by the legal implementation decrees provided that: the procedures for conferring the national scientific qualification be called annually,

without fail, in the month of October; the term of qualification be four years, starting from its attainment; non-attainment of the qualification preclude participation in the procedures called for the same competitive sector of the same level, or a level above, over the next two-year period; the procedures be carried out at universities identified by drawing lots; the pre-established process for forming a national committee for each competitive sector be initiated during the month of May; said committee be composed of five members drawn from a special list made up of the professors who presented the request; the aspiring committee members respect the criteria and parameters of the scientific qualification, consistent with those requested of the candidates to the qualification for the first level; the confirmation of the qualification of the aspiring committee members be carried out by National Agency for the Evaluation of Universities and Research Institutes (ANVUR); the fifth committee member be chosen at random from within a special list, composed of at least four academics or experts, working at universities in a country belonging to the Organisation for Economic Co-operation and Development (OECD). In addition, it provided that, for evaluation purposes, internationally recognised parameters be used, that is, specifically, bibliometric-type indicators in the competitive sectors for which they are available; the maximum number of publications that each candidate may present, for the purpose of attaining the qualification, be fixed, but differ depending on the various subject fields; the process for forming the committee be by drawing lots within a predefined list; it be specified that only persons who hold a scientific qualification consistent with the criteria and parameters set forth by the regulations, pertinent to the competitive sector, and who have published their résumés on the Ministry of Education, University and Research site, may form the committee.

Moreover, alongside this means of access, another was provided for, although with a partial time limitation. It dealt with the provision in article 24 of law no. 240/2010 referring to new fixed-term researchers and open-ended researchers as well as associate professors already on the job. It was established that recruitment of the latter occur through a simplified procedure, without any comparative evaluation, but directly after judgement

by the pertinent university, if they possessed the national qualification.

### *3. Fantasy of the lawmakers and myth of the reforms*

Now, two years after its coming into effect, can a judgement be made on the recruitment system introduced by law no. 240/2010? Is it possible to verify, whether the new means of access has compensated for the negative aspects of the previous situation, that is, the contradictoriness of the guidelines, absence of an overall evaluation of the problem, ill-omened consequences of the lack of competition among universities and existence of a limited rate of mobility?

After having stated that the qualification phase is still in progress, since the committees were not formed until late 2012, one can already make observations, but limit them to the most relevant points.

As regards the national scientific qualification, a forecast can be made that the procedures be called without the need of request by the universities concerned, that is, without any limitation or planning of accesses thereto. Thus, the number of “national scientific qualified persons” is open and disregards the choices of the individual universities. The elimination of the connections between the granting of tenure and the requirement of calling for competitions results in two risks: aggravation of the problem of the quality of the selection, since there is less competition (and, hence, the results are inferior), and limitation of future access by young researchers, who may be driven towards less uncertain paths, there being no secure prospects.

As for the criteria and parameters to be used for the evaluations, there have already been considerable problems in identifying them, taking into account that discussions have been going on for years about the possibility of fixing objective evaluation methods and, specifically, introducing them into the field of humanities.

Regarding the committee for attributing the national scientific qualification, the participation of an academic from a foreign university seems impractical, to say the least: in fact, taking into account the arduousness of the task and, for some

subjects, the language barrier, acquiring accessibility could be quite gruelling.

As for the granting of tenure, a general rule is missing that imposes recourse to parties in the position of being a third party and of neutrality: in fact, provision is made that the public selection procedures, with the comparative evaluation of scientific publications, résumé and teaching activities of the candidates, be regulated by the rules of the individual universities and the call made based on a proposal of the competent department and approved by the board of directors.

In summary, according to the intentions of the lawmakers, the new system is supposed to ensure a balance of the various national and local exigencies, in order to confirm the principles of merit and competition. However, it is doubtful that this objective can really be reached.

Primarily, it is doubtful that an effective selection can be ensured, since the recruitment decisions are even less subject to restrictions, hereby leaving wide discretion to the individual universities regarding the procedures, and, thus, the possibility of conditioning continues and makes the elimination of so much regrettable localism uncertain, to say the least.

In the second place, it is doubtful that the standardisation of university competitions will be ensured, seeing as the possibility of realisation of the new recruitment system shall be linked to resources to be earmarked for the sector on the basis of the political policies of future Governments. This will translate into an objectively difficult situation, considering the current public financing conditions, because a sufficient number of resources from the individual universities will not result from the national qualification phase.

And, finally, it is doubtful that the attempt to precisely define the times for completing the competitive procedures will be successful: it is enough to remember what was verified during the first application, as refers to the times necessary for starting up the procedures for forming the committees and attaining the qualification.

In conclusion, the regulations for recruiting university professors shows that lawmaking is once again a victim of the myth of the reforms, with the consequence that they had once again to tackle the situation with imaginative insight.

Substantially, a choice was made to follow up on the outline of the law of 2005, but introduce extensive amendments, when it may have been more timely to follow a different path and implement the existing law rather than making a new one, naturally with some necessary supplementary interventions.

Norberto Bobbio used to illustrate the vicissitudes of human life with three metaphors: the fish in the net, the fly in the bottle and the labyrinth. The fish in the net fights to get out, but there is no way out. The fly could get out of the bottle, but he's stupid and cannot understand where the opening is. The labyrinth has an exit, but one must be intelligent to find it. It makes one wonder which of these metaphors best describes the conduct of lawmakers on matters of recruiting university professors, even if, unfortunately, it seems that there are few uncertainties about the answer: excepted the first, the other two remain.

#### Bibliographical notes

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A. Ichino, D. Terlizze, M. Regini, *Sulla riforma Gelmini*, in *Il Mulino*, 2012, 151 et seq, G. Capano, R. Moscati, *Tornano sulla riforma Gelmini*, *ibidem*, 352 et seq, and the volume entitled *La riforma dell'università tra legge e statuti*, edited by M. Brollo and R. De Luca Tamajo, Milano, Giuffrè, 2011.

Broader considerations on the university system can be found in R. Finocchi, *Le università*, in *Trattato di diritto amministrativo. Diritto amministrativo speciale*, edited by S. Cassese, t. II, Milano, Giuffrè, 2003, 2<sup>nd</sup> edition, 1349 et seq, in particular 1404 et seq, with numerous biographical indications on the main aspects of the matter. Also useful is the reading, as general reference, of S. Battini, *Il personale*, in *Trattato di diritto amministrativo. Diritto amministrativo generale*, cit., t. I, 373 et seq.

The great debate on the competition system is dealt with in detail on various internet sites that are easily accessed by means of any search engine. Among these sites is *Roars - Return on Academic Research* (at the web site <http://www.roars.it>), where one can find many contributions by A. Banfi, as well as the Research Institute on public administration – Irpa – where there is a forum on the university; various documents can also be found on the same site.

In particular, for details on the reformism of university teaching, reference is also made to U.M. Miozzi, *Lo sviluppo storico dell'università italiana. Gli anni dell'autonomia (1988-1997)*, Roma, Seam, 2003, and *Il problema della docenza tra cronaca e storia*, in *Universitas Quaderni*, no. 17, Roma, Ediun, 2000, and V. Martino, *La riforma della docenza universitaria. Lo stato degli interventi di riordino dalla legge 230 ai decreti attuativi*, in *Universitas*, no. 101, 2006, 38 et seq.

For more general thoughts, one can also see R. Perotti, *L'università truccata*, Torino, Einaudi, 2008, and A. Masia, M. Morcellini, *L'università al futuro. Sistema, progetto, innovazione*, Milano, Giuffrè, 2009 (which proposes the systematising of topics and regulatory references on university policies and the analysis of the socio-cultural meaning of the reforms and their impact on innovating universities, through integrated reporting and the in-depth examination of the principal legislative and administrative measures earmarked or promoted during the 14th legislature, above all with regard to the five-year period 2001-2006). With specific reference to the problem of evaluation, see G. della Cananea, *Sulla valutazione dell'attività scientifica e didattica nel diritto*

*amministrativo*, in Associazione italiana dei professori di diritto amministrativo, *Annuario 2007*, Napoli, Editoriale Scientifica, 2007, 281 et seq, as well as the remarks contained in various contributions published in *Munus. Rivista giuridica dei servizi pubblici*, 2011, no. 3, 567 et seq.

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Statistical data on the teaching staff at universities is derived from the site of the Ministry of Education, university and research (<http://statistica.miur.it>) and from the National Committee for the evaluation of the university system (<http://www.cnvsu.it>).